

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20824
of Stewart E. Smith and Mabel L. Smith
to Appropriate from an Unnamed Stream
in Yuba County

Decision D 1203

ADOPTED DEC 22 1964

DECISION APPROVING APPLICATION

Stewart E. Smith and Mabel L. Smith having filed Application 20824 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20824 is for a permit to appropriate 35 acre-feet per annum (afa) by storage from November 1 of each year to May 30 of the succeeding year for irrigation and stock-watering purposes from an unnamed stream tributary to Costa Creek thence Dry Creek in Yuba County. The point of diversion is to be located within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 19, T19N, R7E, MDB&M.
2. The applicants propose to construct an earthfilled dam 24 feet high and 75 feet long, forming a reservoir with a surface area of 3 acres and a capacity of 35 acre-feet.

3. Water is to be beneficially used to irrigate 45 acres of pasture. Approximately 60 head of cattle and 5 horses also will be watered.

4. All of the protestants excepting Browns Valley Irrigation District divert directly from Costa Creek or Dry Creek during the irrigation season which sometimes commences as early as April. The District diverts to storage at Virginia Ranch Dam on Dry Creek from October 1 to June 1 pursuant to permits.

5. The flow of the unnamed stream is a very small percentage of the flow of Costa and Dry Creeks. When water is available in the unnamed stream during April and May, the supply in Costa and Dry Creeks exceeds the direct diversion requirements of downstream users.

6. The District's storage reservoir is located approximately 16 miles below applicants' point of diversion. The watershed above the proposed project is only 0.39 per cent of the watershed above Virginia Ranch Dam. Therefore, storage as proposed by the applicants would not materially reduce the quantity which is available to the District and which it is entitled to store.

7. There is unappropriated water available to supply the applicants, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

8. The intended uses are beneficial.

From the foregoing findings, the Board concludes that Application 20824 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 20824 and all relevant information on file therewith, particularly the report of the field investigations made August 22, 1963, April 30, 1964, and May 29, 1964.

ORDER

IT IS HEREBY ORDERED that Application 20824 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 35 acre-feet per annum by storage to be collected from about November 1 of each year to about May 30 of the succeeding year.
2. The maximum quantity herein stated may be reduced in the license if investigation warrants.
3. Actual construction work shall begin on or before June 1, 1965, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.
4. Construction work shall be completed on or before December 1, 1967.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. This permit does not authorize collection of water to storage during the period from about May 31 to about October 31 of each season to offset evaporation and seepage losses or for any other purpose.

10. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the natural stream channel, or provide other means satisfactory to the State Water Rights Board, in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream

channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of 1964.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member

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